

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 633 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

MR.JUSTICE A.L.DAVE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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VISNAGAR TAL AUDHYOGIK

SAHAKARI MANDLI LTD

Versus

UNION OF INDIA  
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Appearance:

NANAVATI & NANAVATI for Petitioners

MR JAYANT PATEL for Respondent No. 1

MR JD AJMERA for Respondent No. 2

DS AFF.NOT FILED (R) for Respondent No. 3, 4  
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CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE A.L.DAVE

Date of decision: 21/01/99

ORAL JUDGEMENT (Per B.C.Patel,J)

Visnagar Taluka Audhyogic Sahakari Mandli Ltd. and another have filed this petition with the prayer to issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to grant refund forthwith which they were entitled in view of the order and judgment dated 4-10-1989 delivered by the Customs, Excise & Gold (Control) Appellate Tribunal, Special Bench "C", New Delhi. It appears that by an interim order dated 12th February, 1990 this court directed refund of the amount on certain conditions.

2. Special Civil Application No.170 of 1990 raising similar contentions was heard by Division Bench of this Court on 17-1-1998. Earlier also other special civil applications raising similar contentions were heard. There is no dispute between the parties about this aspect. The Division Bench of the Court in the case of Moti Laminates Pvt. Ltd., and another vs. Union of India and others, (Special Civil Application No.170 of 1990), while dismissing the special civil application passed an order of restoration of the refunded amount to the Government. In view of this position and the fact that the point is concluded, for which there is no dispute, the present petition must meet with the same fate of dismissal. Consequential directions are also required to be issued.

3. The refunded amount which has been received by the petitioners shall be restored to the Union of India within a period of three months from today, if not already restored to the Union of India. It goes without saying that the amount has to be restored with 18% interest. In the instant case we have granted three months' time instead of one month as usual in other matters. This is the case of a cooperative society, and as stated by the learned counsel the Society is facing financial crisis at present. The petition accordingly stands dismissed. Rule discharged. No order as to costs. Liberty to apply, in case of difficulty to either side.

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